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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,885	03/21/2001	Ola Hugosson	3782-0111P	1137
2292	7590	01/13/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			PATEL, KANJIBHAI B	
			ART UNIT	PAPER NUMBER
			2625	

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/812,885

Applicant(s)

HUGOSSON ET AL.

Examiner

Kanji Patel

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 and 41-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-17, 25-30, 33-39, 41-43 and 46-48 is/are allowed.
- 6) ☒ Claim(s) 18-24, 31-32, 44-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

1. Applicant's amendment filed on August 24 2004 has been entered and made of record.

By this amendment, claim 40 has been cancelled. Claims 41-48 are added new.

Claims 1-39 and 41-48 are pending in the application.

Drawings

2. The drawings were received on 8/24/04. These drawings are approved by the examiner.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

4. Claim 9 is objected to because of the following informalities:

Claim 9, line 1, delete " non-sequential ".

Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 18-24, 31-32 and 44-45 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

Claims 18-24 and 44-45 are directed towards a system for storing a non-sequential data comprising a product and a coded pattern placed on the product. The system refers to any storage device used for storing data accessible by a computer. Examples of a computer readable storage medium includes: a magnetic tape, a memory chip, a magnetic hard disk, a floppy disk, an optical disk, such as a CD-ROM and a DVD. The claimed invention is a non-sequential data stored in the system. This system is merely a collection of data or information and constitute a descriptive material. Descriptive material can be considered to be either functional or non-functional (see M.P.E.P. § 2106). Descriptive material is functional if it imparts functionality upon a general purpose computer, such as a computer program or a specific data structure. Functional descriptive material is statutory when recited as being embodied in a computer-readable medium. Claims are directed solely towards non-functional descriptive material are never considered statutory. In the instant case, the claims are not directed towards a computer program, and the claims do not define a specific data structure in that they do not define the particular organizational relationships between the different data sets stored in the system. The claims are solely directed towards the data itself (sequence and sub-sequence data) stored in the system. Therefore, the data or descriptive material set forth in claims 18-24 and 44-45 are considered to be non-functional descriptive material, and the claimed invention is not statutory.

Claims 31-32 are directed towards a coding pattern data structure comprising a plurality of symbols, sequence and subsequence. It is not a useful process, machine, manufacture or a composition of matter, or any new and useful improvement as

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required by 35 USC 101. It represents simply a data structure and is not patentable.

Therefore, the claimed invention is directed to a non-statutory subject matter.

Allowable Subject Matter

6. The following is an examiner's statement of reasons for allowance:


In response to Applicant's amendment and persuasive arguments, (see pages 22-27 of the remarks, filed 8/24/04), with respect to claims 1-17, 25-30, 33-39, the rejection under 102(e) of claims 1-17, 25-30 and 33-39 has been withdrawn and these claims including newly added dependent claims 41-43 and 46-48 are allowed now.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kanji Patel whose telephone number is (703) 305-4011. The examiner can normally be reached on Monday to Thursday from 8:00 a.m. to 6:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta, can be reached on (703) 308-5246. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kanji Patel
Art Unit 2625
January 7, 2004


KANJIBHAI PATEL
PRIMARY EXAMINER